

REMARKS/ARGUMENTS

Reconsideration and allowance of the present application based on the following remarks are respectfully requested. Claims 1-12 have been cancelled. After discussion with the Examiner, Claim 42 has been renumbered as claim 13. The Examiner has agreed to disregard the cancellation of claims 25-41 in the preliminary amendment, though it is unclear that such claims were pending. Claim 13 (formerly claim 42) is amended to correct a typographical error. Claims 14-33 have been added. Support for the new claims may be found throughout the specification, for example at page 3, line 2 to page 6, line 5. No new matter has been added. Upon entry of the amendments, claims 13-33 will be pending.

Claim 1 has been rejected under 35 U.S.C. § 101 as claiming the same invention as claim 1 of U.S. Patent 6,703,418. Claims 1-10 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over articles to Vaupel, et al. ("Vaupel") and Noyes, et al. ("Noyes").

With respect to the rejection under 35 U.S.C. § 101, the amendments to the claims are believed to place them in full compliance with § 101. Specifically, the amendments to the claims remove the statutory type double patenting rejection as the claims are not the same.

With respect to the rejections over Vaupel and Noyes, neither reference suggests the administration of delta-9-tetrahydrocannabinol for HIV or to stimulate weight gain in patients with HIV. Vaupel discusses administering delta-9-tetrahydrocannabinol to dogs and subsequent observations. It found an initial stimulation of appetite followed by atypical lethargy the following day at feeding time. The study also indicates that due to the non-specific nature of food intake, the motivation of hunger may be a result of altered sensory perceptions as a result of the drug. Noyes discusses the psychologic effects of oral delta-9-tetrahydrocannabinol in advanced cancer patients. The most prominent effects of THC were sedation and mental clouding. Increased appetite (not weight gain) was reported after dosing with 10 mg of THC but less commonly described after 20 mg doses. Noyes and Vaupel include no discussion of treatment of HIV nor weight gain in a patient. For at least these reasons, claims 13-33 are patentable over the cited references.

Therefore, all objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned attorney for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

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